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Hidalgo County Clerk
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CL-18-6846-D
CAUSE NO. _____

GLORIA G. VILLAREAL	§	IN THE COUNTY COURT
INDIVIDUALLY AND	§	
A/N/F OF YXXXXXX VXXXXXXX,	§	
A MINOR,	§	
GLORIA L. VILLAREAL,	§	
INDIVIDUALLY AND	§	
A/N/F OF DXXXX RXXXXXXX,	§	
A MINOR	§	
VS.	§	AT LAW NO. ____
	§	
MACY'S CORPORATE SERVICES,	§	
INC. A/K/A MACY'S	§	
AND SCHINDLER	§	
ELEVATOR CORPORATION	§	HIDALGO COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE:

COMES NOW, GLORIA G. VILLARREAL INDIVIDUALLY AND A/N/F OF YXXXXXX VXXXXXXX, A MINOR AND GLORIA L. VILLARREAL, INDIVIDUALLY AND A/N/F DXXXX RXXXXXXX, A MINOR, Plaintiffs, and hereby complain of MACY'S CORPORATE SERVICES, INC. A/K/A MACY'S herein after referred to as Defendant(s) MACY'S AND Defendant SCHINDLER ELEVATOR CORPORATION, and for cause of action states:

I.
DISCOVERY PLAN

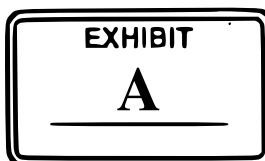
Plaintiffs intend to conduct discovery under Level 2 of the Texas Rule of Civil Procedure 190.

II.
PARTIES

Plaintiffs reside in Edinburg, Hidalgo County, Texas.

Defendant, MACY'S CORPORATE SERVICES, INC. A/K/A MACY'S, is a corporation

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formed under the laws of the State of Texas. Defendant's principal place of business is the State of Texas. Defendant may be served with process by serving the **Office of the Texas Secretary of State** as its agent for service at **P. O. Box 12079, Austin, Texas 78711-2079, Travis County, Texas**. The Office of the Texas Secretary of State may obtain service of process on Defendant for service of process and maybe served by process by serving the registered agent, **Corporate Creations Network Inc. at 2425 W. Loop South #200, Houston, Harris County, Texas 77027**.

Defendant, **SCHINDLER ELEVATOR CORPORATION**, is a corporation formed under the laws of the State of Texas. Defendant's principal place of business is the State of Texas. Defendant may be served with process by serving the **Office of the Texas Secretary of State** as its agent for service at **P. O. Box 12079, Austin, Texas 78711-2079, Travis County, Texas**. The Office of the Texas Secretary of State may obtain service of process on Defendant for service of process and maybe served by process by serving the registered agent, **CT Corp System at 1999 Bryan Street, Ste. 900, Dallas, Texas 75201**.

III. VENUE

Jurisdiction is proper in that the amount in controversy greatly exceeds the minimum jurisdictional requirements of this Court.

Pursuant to Section 15.001 et seq of the Texas Civil Practice and Remedies Code, venue is proper in Hidalgo County in that all or part of this cause of action accrued in Hidalgo County, Texas.

IV. FACTUAL BACKGROUND

On or about December 6, 2016, Plaintiffs, **GLORIA G. VILLAREAL, YXXXXXX**

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VXXXXXXXXX AND DXXXX RXXXXXXXXX were customers of Defendant MACY'S on December 6, 2016. Defendant MACY'S has an elevator in it's store controlled and repaired by Defendant SCHINDLER ELEVATOR CORPORATION. The property is located at 2100 South 10th Street, in McAllen, Hidalgo County, Texas. Defendant MACY'S, holding open its premises for business and as a result of the purpose Plaintiffs, GLORIA G. VILLAREAL, YXXXXXXXXX VXXXXXXXXX AND DXXXX RXXXXXXXXX'S visited such premises. Plaintiffs, GLORIA G. VILLAREAL, YXXXXXXXXX VXXXXXXXXX AND DXXXX RXXXXXXXXX, were at all times an invitee as that phrase is known in the law. Plaintiff GLORIA G. VILLAREAL was taking YXXXXXXXXX VXXXXXXXXX and DXXXX RXXXXXXXXX to the escalator to head upstairs. Plaintiffs, GLORIA G. VILLARREAL, YXXXXXXXXX VXXXXXXXXX AND DXXXX RXXXXXXXXX, lost their balance and fell down the escalator due to the escalator shaking and making a sudden jerking motion. As a result of Plaintiff's fell and they suffered serious bodily injuries.

Defendants SCHINDLER ELEVATOR CORPORATION AND MACY'S were the owners and/or possessors and/or had control over the subject escalator where Plaintiffs fell.

V.
NEGLIGENCE OF DEFENDANT MACY'S CORPORATE SERVICES, INC.
AKA MACY'S

Plaintiffs brings this suit to recover for personal injuries sustained by Plaintiffs as a result of a dangerous condition on Defendant MACY'S property. Defendant MACY'S was guilty of acts and/or omissions which constituted negligence. These acts and/or omissions include, but are not limited to, the following:

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1. Defendant failed to maintain a safe premises for its patrons;
2. Defendant failed to inspect the premises for potential hazards which could result in damages to its patrons;
3. Defendant failed to maintain the premises to avoid potential hazards to its patrons;
4. Defendant failed to warn its patrons of potential hazards; and
5. Defendant knew or should have known of the hazard on its premises and did nothing to correct it.

VI.

NEGLIGENCE OF DEFENDANT SCHINDLER ELEVATOR CORPORATION

Plaintiffs brings this suit to recover for personal injuries sustained by Plaintiffs as a result of a dangerous condition on Defendant **SCHINDLER ELEVATOR CORPORATION'S** property.

Defendant **SCHINDLER ELEVATOR CORPORATION** was guilty of acts and/or omissions which constituted negligence. These acts and/or omissions include, but are not limited to, the following:

1. Defendant had a duty to use ordinary care to ensure the escalator did not present a danger to Plaintiffs. This duty includes the duty to inspect and the duty to warn.
2. Defendant failed to inspect the premises for potential hazards which could result in damages to its patrons ;
3. Defendant failed warn Plaintiffs of the condition and failed to make the condition reasonably safe;
4. Defendant knew or reasonably should have known of the condition of the escalator that posed an unreasonable risk ;
5. Defendants' breach of duty proximately caused injury to Plaintiffs

VII.

At the time and on the occasion in question, Plaintiffs, **GLORIA G. VILLAREAL**,

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YXXXXXX VXXXXXXX AND DXXXX RXXXXXXX, were invitees on Defendant **MACY'S** properties, having gone there for the purpose of purchasing items sold by Defendant **MACY'S**.

During the course of Plaintiffs visit on Defendant's premises, **GLORIA G. VILLAREAL**, **YXXXXXX VXXXXXXX AND DXXXX RXXXXXXX**, were caused to suffer injury by the sudden shaking and/or jerking motion of the escalator which was the direct result of an unreasonably dangerous condition on Defendant **MACY'S** premises and Defendant **SCHINDLER ELEVATOR CORPORATION'S** equipment. Defendant **MACY'S** and Defendant **SCHINDLER ELEVATOR CORPORATION** knew or should have known of the unreasonably dangerous condition of the escalator that posed an unreasonable risk of harm. Defendant **MACY'S** and Defendant **SCHINDLER ELEVATOR CORPORATION** had a duty to use ordinary care to ensure the escalator did not present a danger to Plaintiffs. This duty includes duty to inspect and the duty to warn or to cure. Defendant **MACY'S** and Defendant **SCHINDLER ELEVATOR CORPORATION** failed to adequately warn the Plaintiffs, **GLORIA G. VILLAREAL**, **YXXXXXX VXXXXXXX AND DXXXX RXXXXXXX**, of the condition of the escalator and failed to make the condition reasonably safe and neither corrected nor warned the Plaintiffs, of it. Plaintiffs, **GLORIA G. VILLAREAL**, **YXXXXXX VXXXXXXX AND DXXXX RXXXXXXX**, did not have any knowledge of the dangerous condition and could not have reasonably been expected to discover it. Defendant **MACY'S** and Defendant **SCHINDLER ELEVATOR CORPORATION'S** breach of duty proximately caused injury to Plaintiffs. Defendant **MACY'S AND SCHINDLER ELEVATOR CORPORATION'S** failure to correct the condition or to warn Plaintiffs, **GLORIA G. VILLAREAL**, **YXXXXXX VXXXXXXX AND**

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DXXXX RXXXXXXXXX, constituted negligence, and such negligence was a proximate cause of the occurrence in question and the Plaintiffs' resulting injuries. Plaintiffs' conduct was reasonable and prudent at all times and did not in any way contribute to the incident and ensuing injuries suffered by Plaintiffs, **GLORIA G. VILLAREAL, YXXXXXX VXXXXXXXXX AND DXXXX RXXXXXXXXX**.

VIII.
INJURIES TO PLAINTIFF GLORIA G. VILLARREAL

Plaintiff **GLORIA G. VILLARREAL** sustained the following serious bodily injuries as a direct and proximate result of the Defendant's negligence:

- a. Neck pain;
- b. Upper-back pain;
- c. Low-back pain;
- d. Mid-back pain;
- e. Right shoulder pain;
- f. Right elbow pain;
- g. Right arm pain;
- h. Right knee pain;
- i. Headaches; and
- j. Plaintiff, **GLORIA G. VILLAREAL** suffered injuries to her body in general.

IX.
INJURIES TO MINOR PLAINTIFF YXXXXXX VXXXXXXXXX

Minor plaintiff **YXXXXXX VXXXXXXXXX** sustained the following serious bodily injuries as a direct and proximate result of the Defendant's negligence:

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- a. Head Injury
- b. Hip pain;
- c. Lower-back pain;
- d. Right arm pain;
- e. Left shoulder pain;
- f. Right leg pain;
- g. Left leg pain;and
- f. Minor plaintiff YXXXXXX VXXXXXXX suffered injuries to her body in general.

XI.
INJURIES TO MINOR PLAINTIFF DXXXX RXXXXXXXX

Minor plaintiff DXXXX RXXXXXXXX sustained the following serious bodily injuries as a direct and proximate result of the Defendant's negligence:

- b. Left arm pain;
- b. Left wrist pain;
- c. Left wrist pain;
- d. Right leg pain;
- e. Right Knee pain
- f. Left Knee pain
- g. Head injury; and
- f. Minor plaintiff DXXXX RXXXXXXXX suffered injuries to his body in general.

XII.
DAMAGES TO PLAINTIFF GLORIA G. VILLAREAL
INDIVIDUALLY

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As a direct and proximate result of the negligence of Defendant as alleged herein, Plaintiffs **GLORIA G. VILLAREAL INDIVIDUALLY** suffered the following damages:

- a. Past medical expenses in the amount in excess of the jurisdictional limits of the Court;
- b. Future medical expenses in excess of the minimum jurisdictional limits of the Court;
- c. Past and future physical disability in excess of the minimum jurisdictional limits of the Court;
- d. Past and future pain and suffering in excess of the minimum jurisdictional limits of the Court; and
- e. Past and future mental anguish in excess of the minimum jurisdictional limits of the Court.

XIII.

**DAMAGES TO PLAINTIFF GLORIA G. VILLAREAL
INDIVIDUALLY AND A/N/F OF YXXXXXX VXXXXXXXX**

As a direct and proximate result of the negligence of Defendant as alleged herein, Plaintiffs **GLORIA G. VILLAREAL INDIVIDUALLY AND A/N/F OF YXXXXXX VXXXXXXXX** suffered the following damages:

- a. Past medical expenses in the amount in excess of the jurisdictional limits of the Court;
- b. Future medical expenses in excess of the minimum jurisdictional limits of the Court;
- c. Past and future physical disability in excess of the minimum jurisdictional limits of the Court;
- d. Past and future pain and suffering in excess of the minimum jurisdictional limits of the Court; and
- e. Past and future mental anguish in excess of the minimum jurisdictional limits of the Court.

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XIV.
DAMAGES TO PLAINTIFF GLORIA L. VILLAREAL
INDIVIDUALLY AND A/N/F OF DXXXX RXXXXXXXXX

As a direct and proximate result of the negligence of Defendant as alleged herein, Plaintiffs **GLORIA L. VILLAREAL INDIVIDUALLY AND A/N/F OF DXXXX RXXXXXXXXX** suffered the following damages:

- a. Past medical expenses in the amount in excess of the jurisdictional limits of the Court;
- b. Future medical expenses in excess of the minimum jurisdictional limits of the Court;
- c. Past and future physical disability in excess of the minimum jurisdictional limits of the Court;
- d. Past and future pain and suffering in excess of the minimum jurisdictional limits of the Court; and
- e. Past and future mental anguish in excess of the minimum jurisdictional limits of the Court.

XV.
REQUESTS FOR DISCLOSURE

Pursuant to the provisions of Rule 194, Texas Rules of Civil Procedure, you are requested to disclose, within (50) days of service of this request, the information or material described in 194.2(a)-(j).

XVI.

Plaintiffs requests pre-judgment and post-judgment interest as allowed by law.

JURY DEMAND

Pursuant to Rule 216, Texas Rules of Civil Procedure, Plaintiffs request a trial by jury as to all issues of fact presented herein.

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PRAYER FOR RELIEF

FOR THE REASONS STATED, Plaintiffs pray that Defendant be cited in terms of law to appear and answer herein and that Plaintiffs, upon final trial of this cause, have judgement against Defendants, jointly and severely, in an amount in excess of the minimum jurisdictional limits of this Court, for costs of Court, pre-judgment and post-judgment interest at the highest legal rate, for the recovery of actual damages, and for such other and further relief, both special and general, to which Plaintiffs may be entitled, in that of law and equity.

Respectfully Submitted,

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